

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 650

Case No. 89-25

(Downtown Development District -
Text and Map Amendment)

EMERGENCY ORDER

January 8, 1990

On January 8, 1990, the Zoning Commission for the District of Columbia considered a request that the Commission effect emergency rulemaking to exempt transferred development rights ("TDRs") from the effect of zoning text and map amendments that could otherwise block the use of gross floor area that has been transferred pursuant to 11 DCMR 1705.

The Commission reviewed letters from Mark N. Mallus, Sales Consultant, Coldwell Banker Commercial, and past Chairman of the Zoning and New Development Committee of the Washington, D.C. Association of Realtors, dated January 3, 1990, September 29, 1989, May 24, 1989, and April 29, 1989; from Jacques DePuy, Esquire, dated January 8, 1990; and Whayne S. Quin, Esquire, dated January 8, 1990; and a memorandum dated January 5, 1990, from the Executive Director of the Zoning Secretariat.

Having considered the foregoing, and having heard the recommendation of the Office of Planning in support of emergency rulemaking, the Commission decided to effect emergency rulemaking, for the following reasons:

- WHEREAS, the transfer of development rights, as a key element in implementation of the land use goals and policies of the District of Columbia Comprehensive Plan, was first promulgated in Z.C. Order No. 609, effective March 31, 1989;
- WHEREAS, the effective use of TDRs is of critical importance to realization of the goals and policies of the District for Downtown and certain other areas;
- WHEREAS, the Zoning Commission finds that it should take

reasonable action to assure sellers and buyers of TDRs that TDRs will remain viable for the time that it takes to use them;

WHEREAS, the Office of Planning advised the Commission that a number of transactions involving TDRs have reached a stage that requires the adoption of a rule that provides unambiguously for the vesting of TDRs; and

WHEREAS, the emergency rule that is adopted by this order is reasonably related to pending hearings in Zoning Commission Case No. 89-25;

THEREFORE, the Zoning Commission resolves that there exists an emergency that requires the immediate amendment of the Zoning Regulations of the District of Columbia to protect the public welfare; and therefore, it is hereby ordered that, effective immediately on January 8, 1990, at 6:45 P.M., and for a period not to exceed 120 days beginning on January 8, 1990, Title 11, DCMR, "Zoning" is amended as follows:

1. Insert a new Section 3204, to read as follows:

3204 VESTING OF TRANSFERRED DEVELOPMENT RIGHTS

3204.1 Notwithstanding the provisions of subsections 3202.5 and 3202.6 of this title, gross floor area that is transferred pursuant to this title shall remain available for the life of the development on the receiving lot, subject to the following provisions:


- (a) Within thirty calendar days of the execution of the written agreement that effects the transfer, the parties to the transfer shall file a true copy of the agreement with the Zoning Administrator; and
- (b) The transfer agreement shall be valid for a period of 25 years after its execution, within which time an application shall be filed for each building permit that is required to implement the transfer.

2. Redesignate current section 3204 as Section 3205.

This order and emergency rulemaking were adopted by the Commission at the public meeting on January 8, 1990, by a vote of 3-0: (Maybelle Taylor Bennett, Lloyd D. Smith, and John G. Parsons to approve; Tersh Boasberg and William Ensign, not present, not voting).

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In accordance with D.C. Code Section 1-1506(c) (1981), this emergency rule became effective immediately upon adoption on January 8, 1990, and will remain effective through May 7, 1990, unless superseded earlier by final rulemaking.

ATTESTED BY: 

EDWARD L. CURRY
Executive Director
Zoning Secretariat

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